UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,385	05/15/2001	Jheroen P. Dorenbosch	PF02177NA	8937

EXAMINER
MEHRPOUR, NAGHMEH

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ART UNIT	PAPER NUMBER
2686	

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Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/855,385	DORENBOSCH
	Examiner	Art Unit
	Naghmeh Mehrpour	2686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *22 January 2004* .

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-12 and 14-20* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-12 and 14-20* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

   If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a) ☐ All b) ☐ Some * c) ☐ None of:

   1. ☐ Certified copies of the priority documents have been received.

   2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

   3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

   a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .

4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____ .

DETAILED ACTION

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis

for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth
> in section 102 of this title, if the differences between the subject matter sought to be patented and the prior
> art are such that the subject matter as a whole would have been obvious at the time the invention was made
> to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

2.   **Claims 1-5, 7,** are rejected under 35 U.S.C. 103(a) as being

unpatentable over Aravamudan et al. (US Patent Number 6,301,609 B1) in view

of Isaacs et al. (US Patent Number 2002/0034281 A1).

Regarding **claims 1-2,** Aravamudan teaches a method of emerging Instant

Messaging (col 2 lines 60-63), comprising:

causing a mobile subscriber to register with an instant message system

prior to participating in an instant message session (col 5 lines 5-9),

indicating availability of the mobile subscriber to buddies of the

mobile subscriber (col 7 lines 1-8);

receiving an instant message intended for the mobile subscriber from

one of the buddies (col 5 lines 25-31); and

Aravamudan fails to teach that the method of emerging **deleting** the instant

message intended for the mobile subscriber from the one of the buddies if the

mobile subscriber does not receive the instant message after the instant

message is resent a predetermined number of times. However Isaacs teaches a

method for delivering of an instant message to a subscriber over multiple

communication channels, users typically does not have continuous connections

to the server, every client provides updates to the server, the server send

back status information about each of the buddies for the client. If the

client does not send any updates the server marks that client as offline.

Another words, Isaacs teaches a method of **deleting** the instant message

intended for the subscriber from the one of the users if the user does not

receive the instant message after the instant message is resent (page 10

section 0094), a predetermined number of times (Isaacs number of

predetermined times is set=1).Therefore, it would have been obvious to one of

ordinary skill in the art at the time of the invention to combine the above

teaching of Isaacs with Aravamudan, in order to provide a communication

system that rapidly escalating in popularity is based instant messaging which

offers more instantaneous gratification with respect to interactive

communications between two or more users.

Regarding **claim 3,** Aravamudan teaches a mobile subscriber instant message

system, comprising;

        an instant proxy for receiving registration information from a mobile

subscriber and for subsequently indicating to registered system subscribers

participating in an instant message session that the mobile subscriber is

available for receiving instant messages (col 2 lines 31-38);

Aravamudan allows for a high degree of control to be retained by the user,

through the user of instant Messaging, to direct delivery of data and

communications (col 9 lines 34-45).For example upon notification of a pending

event of received data or communications by the communication service

platform, the user may selects to reject communication or to have data

forwarded to Messaging system or elect to conference parties (col 11 lines

35-45). Aravamudan does not teach the instant Messaging proxy resending an

instant message intended for the mobile subscriber if the subscriber received

no response. However Isaacs teaches a method for delivering of an instant

message to a subscriber over multiple communication channels, users typically

does not have continuous connections to the server, every client provides

updates to the server, the server send back status information about each of

the buddies for the client. If the client does not send any updates the

server marks that client as offline. Another words, Isaacs teaches a method

of **deleting** the instant message intended for the subscriber from the one of

the users if the user does not receive the instant message after the instant

message is resent (page 10 section 0094),a predetermined number of times

(Isaacs's number of times predetermined to once/set=1). Therefore, it would

have been obvious to one of ordinary skill in the art at the time of the

invention to combine the above teaching of Isaacs with Aravamudan, in order

to provide a communication system that rapidly escalating in popularity is

based instant messaging which offers more instantaneous gratification with

respect to interactive communications between two or more users.

Regarding **claims 4-5,** Aravamudan teaches a mobile subscriber instant message

system wherein the instant message proxy is located an instant message server

(See figure 1, numerals 120, 130); and the instant message proxy is located

in proximity a mobile system gateway (See figure 1, numerals 130, 126).

Regarding **claim 7,** Aravamudan teaches a mobile subscriber instant message

system further comprising a log in server with which the mobile subscriber

must register prior to participating in an instant message session, the log

in server for indicating to the registered system subscribers participating

in the instant message session that the mobile subscriber is available for

receiving instant messages (col 7 lines 33-37, col 8 lines 56-63).

3.   **Claim 6**, is rejected under 35 U.S.C. 103(a) as being unpatentable over Aravamudan et al. (US Patent Number 6,301,609 B1) in view of Isaacs et al. (US Patent Number 2002/0034281 A1, in further view of Drottar et al. (US Patent Number 6,333,929 B1).

Regarding **claim 6**, Aravamudan teaches a mobile subscriber instant message system wherein the instant message proxy (col 2 lines 32-38, col 7 lines 41-49). The combination of Aravamudan modified by Isaacs fails tot each that Proxy includes at least one of a timer and a counter programmed to limit the instant message from being sent to the mobile subscriber for at least one of only the predetermined number of times and within a predetermined time period. However Drottar teaches a timer and a counter programmed to limit the message from being sent to remote device for the predetermined number of times and within a predetermined time period (col 9 lines 40-50). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Drottar method with Aravamudan, in order to enhance the system performance by providing more accuracy.

4.   **Claims 8-20**, are rejected under 35 U.S.C. 103(a) as being unpatentable over Aravamudan et al. (US Patent Number 6,301,609 B1) in view of Mawhinney (US Patent Number 6,091,710).

Regarding **claims 8-9, 17, 19-20**, Aravamudan teaches a method of a service providers client access to one or more plurality of client premises equipments (CPE) 140, the CPE can be a wireless phone, and service provider can be PSTN. Communications and data can be exchange between the CPE and PSTN via switch module 124 or routing module 122 (see figure 1). An Instant Messaging system is utilized to provide new and useful features and services for clients (col 4 lines 54-64). A communication service platform (CSP) is registered with the IM server as a □buddy□ to the subscriber client. The

location of subscribers CPE is located by the CPS 160, the CPS initiates

communications to the subscribing client via instant messages, and the CPS

solicits a response from the subscribers CPE (col 5 line 15-31). The method

comprising: notifying the mobile subscriber when instant message parameters

reach a predetermined limit (col 10 lines 23-31). When the subscribers are

off line, all others (buddies) who have identified the user as a buddy are

notified that the user is not online and is not available (col 10 lines 11-

15). Aravamudan fails to teach that queuing instant messages intended for the

mobile subscriber while the mobile subscriber is not registered with the

instant message system, and facilitating connection of the mobile subscriber

to the instant message system to enable the mobile subscriber to retrieve the

queued instant messages. However Mawhinney teaches a method of reducing data

queuing instant messages intended for data packets that are transmitted in

accordance with Internet protocol. TCP is utilized at the transport layer to

provide flow control utilizing message acknowledgments (col 8 lines 19-20).

Three nodes are illustrated in Figure 4, an upstream node 160 (Mobile unit),

and intermediate node, which also provide queuing function, or a down stream

node 162, and a destination node end-point 164 (Instant Messaging) (col 9

lines 30-35). The intermediate node 162 (queuing function) is capable of

identifying acknowledgments from the end point 164 (Instant Messaging) by the

information contained in the TCP header. In figure 5, shows five messages

have been transmitted by the upstream node (Mobile Unit) without receiving

acknowledgments from queuing. The upstream 160 (Mobile unit) waits to receive

acknowledgments, thereafter transmits messages on a one-to-one basis. Once

limit of queuing is reached maximum, then Mobile would not transmit further

message until another message (acknowledgments) is received. Another word

the intermediate node (Mobile Unit) starts transmitting messages to IM

service when the queuing is reached to Maximum number. For example upon max

transmission of seven (n=5), having received only four acknowledgments, the

upstream nodes (Mobile units) waits receipt of the fifth acknowledgment (col

10 lines 32-65).Then when the maximized Queuing is reached, Mobile starts

establishing connection between mobile subscriber and instant message

service. Therefore, it would have been obvious to one of ordinary skill in

the art at the time of the invention to combine Mawhinney method with

Aravamudan, in order to establish connection between Mobile unit and Instant

Messaging service while avoiding excess queuing message for IM.

Regarding **claims 10-12, 14-15,** Aravamudan does not specifically mention that

notifying the mobile subscriber when queued instant message parameters reach

a predetermined limit comprises notifying the mobile subscriber when a

predetermined number of buddies send messages intended for the mobile

subscriber within a predetermined amount of time. However Mawhinney teaches

the notifying the mobile subscriber when queued instant message parameters

reach a predetermined limit (col 11 lines 1-9 and abstract) comprises

notifying the mobile subscriber when a predetermined number of buddies send

messages intended for the mobile subscriber within a predetermined amount of

time (col 10 lines 42-65). Mawhinney teaches that once the system threshold

has reached, for example the system threshold is five, five messages have

been transmitted by upstream node, without receiving acknowledgments the

upstream node waits to receive acknowledgment, (waiting times is the

predetermined times). The five messages are queued for a certain amount of

time (waiting period) till an acknowledgment received, and thereafter

transmits messages. Therefore, it would have been obvious to one of ordinary

skill in the art at the time of the invention to use Mawhinney teaching to

Aravamudan, in order to improve the performance by better bandwidth utilization.

Regarding **claim 16,** Aravamudan fails to teach a method wherein the predetermined limit in the notifying the mobile when queued instant message parameters reach a predetermined limit is based at least in part on mobile subscriber-based instructions. However Mawhinney teaches the notifying the mobile subscriber when queued instant message parameters reach a predetermined limit (col 11 lines 1-10) comprises notifying the mobile subscriber when a predetermined number of buddies send messages intended for the mobile subscriber within a predetermined amount of time (col 10 lines 42-65). Mawhinney teaches that once the system threshold has reached, for example the system threshold is five, five messages have been transmitted by upstream node, without receiving acknowledgments the upstream node waits to receive acknowledgment, (waiting times is the predetermined times). The five messages are queued for a certain amount of time (waiting period) till an acknowledgment received, and thereafter transmits messages. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use Mawhinney teaching to Aravamudan, in order to improve the performance by better bandwidth utilization.(col 7 lines 35-44, col 9 lines 1-5).

Regarding **claim 18,** Aravamudan fails to teach a method further comprising downloading the queued instant messages intended for the mobile subscriber when one of a high priority instant message is received and the mobile subscriber sends an outgoing message. However Mawhinney teaches a method comprising: downloading the queued instant messages intended for the mobile subscriber when one of a high priority instant message is received and the mobile subscriber sends an outgoing message (col 2 lines 25-36, col 10 lines

42-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use Mawhinney teaching to Aravamudan, in order to achieve better bandwidth utilization, and provide better feasibility for the system.

Response to Arguments

5.   Applicant's arguments with respect to claims 1-7, have been considered but are moot in view of the new ground(s) of rejection.

6.   Applicant's arguments filed 1/22/04 regarding claims 8-12, 14-20 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a buddy that sends multiple message without regard for whether an answer is received) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

7.   **Any responses to this action should be mailed to:**

        Commissioner of Patents and Trademarks

        Washington, D.C. 20231

    or faxed to:

        (703) 872-9314, (for formal communications indented for entry)

    Or:

        (703) 308-6306, (for informal or draft communications, please

label ☐PROPOSED☐ or ☐DRAFT☐)

Hand-delivered responses should be brought to Crystal Park II.

2121 Crystal Drive,   Arlington. Va., sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this

application or proceeding should be directed to the technology Center 2600

Customer Service Office whose telephone number is (703) 306-0377.

Any inquiry concerning this communication or earlier communication from

the examiner should be directed to Melody Mehrpour whose telephone number is

(703) 308-7159. The examiner can normally be reached on Monday through

Thursday (first week of bi-week) and Monday through Friday (second week of

bi-week) from 6:30 a.m. to 5:00 p.m.

If attempt to reach the examiner are unsuccessful the examiner's

supervisor, Marsha Banks-Harold be reached (703)305-4379.

NM

March 29, 2004

MARSHA D. BANKS-HAROLD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600